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FISCAL IMPACT STATEMENT

LS 6883

BILL NUMBER: SB 362

NOTE PREPARED: Jan 9, 2008

BILL AMENDED:

SUBJECT: Interstate Enforcement of Protective Orders.

FIRST AUTHOR: Sen. Simpson

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill conforms Indiana law to the Uniform Interstate Enforcement of Protective Orders Act by: (1) providing that an Indiana court may not enforce a foreign protection order issued by the tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order; and (2) specifying that if one or more of the criteria for determining whether a protection order is facially valid do not apply to a foreign protection order, the inapplicability of the criteria to the foreign protection order is an affirmative defense in an action seeking enforcement of the order.

Effective Date: July 1, 2008.

Explanation of State Expenditures: This bill could narrow the number of people who can file for enforcement of a foreign protective order. If fewer cases occur in which a foreign protective order can be enforced, fewer persons may be arrested and sentenced to either prison or probation.

Under current law, violating a protective order can be either a Class A misdemeanor, or a Class D felony if the person has a prior unrelated conviction for violating a protective order. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,185 in FY 2007. LSA found no offenders who were committed to the Department of Correction (DOC) in FY 2007 for violating a protective order.

Background- By definition, a protective order prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. (IC 5-26.5-1-7)

A foreign protective order is issued by a court outside of the state of Indiana.

Under current law, a foreign protective order can be enforced if the order:

1. identifies the protected person and the respondent;
2. is currently in effect;
3. was issued by a state or tribal court with jurisdiction over the parties; and
4. was issued after the respondent was given adequate notice.

This bill could reduce the number of persons to whom a foreign protective order may apply by two ways:

- If any of the four criteria above is invalid, then the foreign protective order may not be enforced.
- If the jurisdiction from outside Indiana does not recognize the legal standing of the protected individual (such as persons who were in a dating relationship or in some cases in a same sex relationship), then the protective order may not be enforced in Indiana.

Explanation of State Revenues: *Penalty Provision* -- The maximum fine for a Class D felony is \$10,000, while the maximum fine for a Class A misdemeanor is \$5,000. Revenue from fines is deposited in the Common School Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The cost per day for an offender in a jail is \$44.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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